

REFERENCE TITLE: sex offenders; address verification.

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2804

Introduced by
Representatives Prezelski, Lujan: Gallardo, Kirkpatrick, Lopez L, Senators
Aboud, Brotherton, Soltero

AN ACT

AMENDING SECTIONS 13-3821, 13-3822, 13-3824, 13-3825 AND 13-3826, ARIZONA
REVISED STATUTES; RELATING TO SEX OFFENDER REGISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3821, Arizona Revised Statutes, is amended to
3 read:

4 13-3821. Persons required to register; procedure;
5 identification card; definitions

6 A. A person who has been convicted of a violation or attempted
7 violation of any of the following offenses or who has been convicted of an
8 offense committed in another jurisdiction that if committed in this state
9 would be a violation or attempted violation of any of the following offenses
10 or an offense that was in effect before September 1, 1978 and that, if
11 committed on or after September 1, 1978, has the same elements of an offense
12 listed in this section or who is required to register by the convicting
13 jurisdiction, within ten days after the conviction or within ten days after
14 entering and remaining in any county of this state, shall register with the
15 sheriff of that county:

16 1. Unlawful imprisonment pursuant to section 13-1303 if the victim is
17 under eighteen years of age and the unlawful imprisonment was not committed
18 by the child's parent.

19 2. Kidnapping pursuant to section 13-1304 if the victim is under
20 eighteen years of age and the kidnapping was not committed by the child's
21 parent.

22 3. Sexual abuse pursuant to section 13-1404 if the victim is under
23 eighteen years of age.

24 4. Sexual conduct with a minor pursuant to section 13-1405.

25 5. Sexual assault pursuant to section 13-1406.

26 6. Sexual assault of a spouse if the offense was committed before ~~the~~
27 ~~effective date of this amendment to this section~~ AUGUST 12, 2005.

28 7. Molestation of a child pursuant to section 13-1410.

29 8. Continuous sexual abuse of a child pursuant to section 13-1417.

30 9. Taking a child for the purpose of prostitution pursuant to section
31 13-3206.

32 10. Child prostitution pursuant to section 13-3212.

33 11. Commercial sexual exploitation of a minor pursuant to section
34 13-3552.

35 12. Sexual exploitation of a minor pursuant to section 13-3553.

36 13. Luring a minor for sexual exploitation pursuant to section 13-3554.

37 14. Sex trafficking of a minor pursuant to section 13-1307.

38 15. A second or subsequent violation of indecent exposure to a person
39 under the age of fifteen years pursuant to section 13-1402, subsection B.

40 16. A second or subsequent violation of public sexual indecency to a
41 minor under the age of fifteen years pursuant to section 13-1403,
42 subsection B.

43 17. A third or subsequent violation of indecent exposure pursuant to
44 section 13-1402.

1 18. A third or subsequent violation of public sexual indecency pursuant
2 to section 13-1403.

3 19. A violation of section 13-3822 or 13-3824.

4 B. Before the person is released from confinement the state department
5 of corrections in conjunction with the department of public safety and each
6 county sheriff shall complete the registration of any person who was
7 convicted of a violation of any offense listed under subsection A of this
8 section. Within three days after the person's release from confinement, the
9 state department of corrections shall forward the registered person's records
10 to the department of public safety and to the sheriff of the county in which
11 the registered person intends to reside. Registration pursuant to this
12 subsection shall be consistent with subsection E of this section.

13 C. Notwithstanding subsection A of this section, the judge who
14 sentences a defendant for any violation of chapter 14 or 35.1 of this title
15 or for an offense for which there was a finding of sexual motivation pursuant
16 to section 13-118 may require the person who committed the offense to
17 register pursuant to this section.

18 D. The court may require a person who has been adjudicated delinquent
19 for an act that would constitute an offense specified in subsection A or C of
20 this section to register pursuant to this section. Any duty to register
21 under this subsection shall terminate when the person reaches twenty-five
22 years of age.

23 E. A person who has been convicted of or adjudicated delinquent and
24 who is required to register in the convicting state for an act that would
25 constitute an offense specified in subsection A or C of this section and who
26 is not a resident of this state shall be required to register pursuant to
27 this section if the person is either:

28 1. Employed full-time or part-time in this state, with or without
29 compensation, for more than fourteen consecutive days or for an aggregate
30 period of more than thirty days in a calendar year.

31 2. Enrolled as a full-time or part-time student in any school in this
32 state for more than fourteen consecutive days or for an aggregate period of
33 more than thirty days in a calendar year. For the purposes of this
34 paragraph, "school" means an educational institution of any description,
35 public or private, wherever located in this state.

36 F. Any duty to register under subsection D or E of this section for a
37 juvenile adjudication terminates when the person reaches twenty-five years of
38 age.

39 G. The court may order the termination of any duty to register under
40 this section on successful completion of probation if the person was under
41 eighteen years of age when the offense for which the person was convicted was
42 committed.

43 H. At the time of registering, the person shall sign a statement ~~in~~
44 ~~writing~~ giving such information as required by the director of the department
45 of public safety, including all names by which the person is known. The

1 sheriff shall fingerprint and photograph the person and within three days
2 thereafter shall send copies of the statement, fingerprints and photographs
3 to ~~the criminal identification section within~~ the department of public safety
4 and the chief of police, if any, of the place where the person resides. The
5 information that is required by this subsection shall include the physical
6 location of the person's residence and the person's address. If the person
7 has a place of residence that is different from the person's address, the
8 person shall provide the person's address, the physical location of the
9 person's residence and the name of the owner of the residence if the
10 residence is privately owned and not offered for rent or lease. If the
11 person receives mail at a post office box, the person shall provide the
12 location and number of the post office box. If the person does not have an
13 address or a permanent place of residence, the person shall provide a
14 description and physical location of any temporary residence.

15 I. On the person's initial registration and every year after the
16 person's initial registration, the person shall obtain a new nonoperating
17 identification license or a driver license from the motor vehicle division in
18 the department of transportation and shall carry a valid nonoperating
19 identification license or a driver license. Notwithstanding sections 28-3165
20 and 28-3171, the license ~~shall be~~ IS valid for one year from the date of
21 issuance, and the person shall submit to the department of transportation
22 proof of the person's address and place of residence. The motor vehicle
23 division shall annually update the person's ADDRESS AND photograph and shall
24 make a copy of the photograph available to the criminal identification
25 section of the department of public safety or to any law enforcement agency.
26 THE MOTOR VEHICLE DIVISION SHALL PROVIDE DAILY ADDRESS UPDATES TO THE
27 DEPARTMENT OF PUBLIC SAFETY.

28 J. Except as provided in subsection E or K of this section, the clerk
29 of the superior court in the county in which a person has been convicted of a
30 violation of any offense listed under subsection A of this section or has
31 been ordered to register pursuant to subsection C or D of this section shall
32 notify the sheriff in that county of the conviction within ten days after
33 entry of the judgment.

34 K. Within ten days after entry of judgment, a court not of record
35 shall notify the arresting law enforcement agency of an offender's conviction
36 of a violation of section 13-1402. Within ten days after receiving this
37 information, the law enforcement agency shall determine if the offender is
38 required to register pursuant to this section. If the law enforcement agency
39 determines that the offender is required to register, the law enforcement
40 agency shall provide the information required by section 13-3825 to the
41 department of public safety and shall make community notification as required
42 by law.

43 L. A person who is required to register pursuant to this section
44 because of a conviction for the unlawful imprisonment of a minor or the
45 kidnapping of a minor is required to register, absent additional or

1 subsequent convictions, for a period of ten years from the date that the
2 person is released from prison, jail, probation, community supervision or
3 parole and the person has fulfilled all restitution obligations.
4 Notwithstanding this subsection, a person who has a prior conviction for an
5 offense for which registration is required pursuant to this section is
6 required to register for life.

7 M. A person who is required to register pursuant to this section and
8 who is a student at a public or private institution of postsecondary
9 education or who is employed, with or without compensation, at a public or
10 private institution of postsecondary education or who carries on a vocation
11 at a public or private institution of postsecondary education shall notify
12 the county sheriff having jurisdiction of the institution of postsecondary
13 education. The person required to register pursuant to this section shall
14 also notify the sheriff of each change in enrollment or employment status at
15 the institution.

16 N. AT THE TIME OF REGISTERING, THE SHERIFF SHALL SECURE A SUFFICIENT
17 SAMPLE OF BLOOD OR OTHER BODILY SUBSTANCES FOR DEOXYRIBONUCLEIC ACID TESTING
18 AND EXTRACTION FROM A PERSON WHO HAS BEEN CONVICTED OF AN OFFENSE COMMITTED
19 IN ANOTHER JURISDICTION THAT IF COMMITTED IN THIS STATE WOULD BE A VIOLATION
20 OR ATTEMPTED VIOLATION OF ANY OF THE OFFENSES LISTED IN SUBSECTION A OF THIS
21 SECTION OR AN OFFENSE THAT WAS IN EFFECT BEFORE SEPTEMBER 1, 1978 AND THAT,
22 IF COMMITTED ON OR AFTER SEPTEMBER 1, 1978, HAS THE SAME ELEMENTS OF AN
23 OFFENSE LISTED IN SUBSECTION A OF THIS SECTION OR WHO IS REQUIRED TO REGISTER
24 BY THE CONVICTING JURISDICTION. THE SHERIFF SHALL TRANSMIT THE SAMPLE TO THE
25 DEPARTMENT OF PUBLIC SAFETY.

26 ~~N.~~ 0. For the purposes of this section:

- 27 1. "Address" means the location at which the person receives mail.
28 2. "Residence" means the person's dwelling place, whether permanent or
29 temporary.

30 Sec. 2. Section 13-3822, Arizona Revised Statutes, is amended to read:

31 13-3822. Notice of moving from place of residence or change of
32 name; forwarding of information; definitions

33 A. Within seventy-two hours, excluding weekends and legal holidays,
34 after moving from the person's residence within a county or after changing
35 the person's name, a person who is required to register under this article
36 shall inform the sheriff in person and in writing of the person's new
37 residence, address or new name. If the person moves to a location that is
38 not a residence and the person receives mail anywhere, including a post
39 office box, the person shall notify the sheriff of the person's address.
40 Within three days after receipt of such information, the sheriff shall
41 forward it to the criminal identification section within the department of
42 public safety and the chief of police, if any, of the place from which the
43 person moves, and shall forward a copy of the statement, fingerprints and
44 photograph of the person to the chief of police, if any, of the place to
45 which the person has moved.

1 B. Within seventy-two hours after a person moves from a county in
2 which the person is registered, the person shall notify in writing the
3 sheriff of the county from which the person moves. If the person is subject
4 to community notification requirements, the sheriff of the county from which
5 the person moves shall advise the local law enforcement agency of the county
6 to which the person moves of the move. If the person moves out of this
7 state, the sheriff of the county from which the person moves shall advise the
8 local law enforcement agency in the jurisdiction to which the person moves.
9 The local law enforcement agency shall contact the department of public
10 safety following ten days after being notified to determine if the person has
11 reregistered. If the person has not reregistered, the local law enforcement
12 agency shall notify the local law enforcement agency in the county in which
13 the person last resided. ~~The local~~ ANY law enforcement agency in the county
14 in which the person last resided shall conduct an investigation and shall
15 submit a report to the appropriate county attorney.

16 C. For the purposes of this section:

17 1. "Address" means the location at which the person receives mail.

18 2. "Residence" means the person's dwelling place, whether permanent or
19 temporary.

20 Sec. 3. Section 13-3824, Arizona Revised Statutes, is amended to read:

21 13-3824. Violation; classification; assessment

22 A. A person who is subject to registration under this article and who
23 fails to comply with the requirements of this article is guilty of a class 4
24 felony.

25 B. Notwithstanding subsection A of this section, a person who fails to
26 comply with section 13-3821, subsection I is guilty of a class ~~1-misdemeanor~~
27 6 FELONY and, in addition to any other penalty prescribed by law, the court
28 shall order the person to pay an additional assessment of two hundred fifty
29 dollars. This assessment is not subject to any surcharge. The court shall
30 transmit the monies received pursuant to this subsection to the county
31 treasurer. The county treasurer shall transmit the monies received to the
32 state treasurer. The state treasurer shall deposit the monies received in
33 the sex offender monitoring fund established by section 13-3828.
34 Notwithstanding any other law, the court shall not waive the assessment
35 imposed pursuant to this subsection.

36 Sec. 4. Section 13-3825, Arizona Revised Statutes, is amended to read:

37 13-3825. Community notification

38 A. Within seventy-two hours after a person who was convicted is
39 released from confinement or who was accepted under the interstate compact
40 for the supervision of parolees and probationers and has arrived in this
41 state, the agency that had custody or responsibility for supervision of the
42 person who was convicted of committing an offense for which the person was
43 required or ordered by the court to register pursuant to section 13-3821 or
44 that has accepted supervision under the interstate compact for the
45 supervision of parolees and probationers shall provide all of the following

1 information to the department of public safety by entering all of the
2 following information into the sex offender profile and notification
3 database:

- 4 1. The offender's identifying information.
- 5 2. A risk assessment of the offender.
- 6 3. The offender's date of release from confinement or, if the offender
7 is sentenced to probation without jail time, the date the sentence is
8 imposed.

9 B. Following the tenth day after the person is released from
10 confinement or, if the offender is sentenced to probation without jail time,
11 the date the sentence is imposed, the department of public safety shall
12 cross-reference the information the department receives pursuant to
13 subsection A of this section with the sex offender registry to determine if
14 the person is registered as required or ordered by the court pursuant to
15 section 13-3821. If the person is not registered, the LOCAL LAW ENFORCEMENT
16 AGENCY OR THE department of public safety shall ~~notify~~ REQUEST THAT A WARRANT
17 BE ISSUED BY the county attorney in the county in which the person was
18 convicted or, IF APPROPRIATE, NOTIFY the interstate compact administrator for
19 this state. If the person is registered, the department of public safety
20 shall forward the information the department received pursuant to subsection
21 A of this section to the sheriff in the county where the person is
22 registered.

23 C. After receiving the information pursuant to subsection B of this
24 section, the sheriff shall forward the information to the chief law
25 enforcement officer of the community in which the person resides. After
26 reviewing the information received and any other information available to the
27 local law enforcement agency, the local law enforcement agency shall
28 categorize each offender and place each offender into a notification level.
29 Within forty-five days, the local law enforcement agency shall notify the
30 community of the offender's presence in the community pursuant to the
31 guidelines established by the community notification guidelines committee.
32 If the community does not have a chief law enforcement officer, the sheriff
33 shall perform the duties of the local law enforcement agency.

34 D. If a person who has been convicted of an offense in another state
35 registers pursuant to section 13-3821, subsection A, the sheriff in the
36 county in which the person registers shall forward the information to the
37 chief law enforcement officer of the community in which the person resides.
38 The chief law enforcement officer shall contact the state in which the person
39 was convicted and shall obtain information regarding the person. After
40 reviewing the information received and any other information available, the
41 local law enforcement agency shall complete the risk assessment, shall
42 categorize the person, shall place the person into a notification level and
43 shall enter the information into the computer system. If the law enforcement
44 agency is unable to obtain sufficient information to complete the sex
45 offender community notification risk assessment, the agency shall categorize

1 the offender as a level two offender. Within forty-five days, the local law
2 enforcement agency shall notify the community of the person's presence in the
3 community pursuant to the guidelines established by the community
4 notification guidelines committee. If the community does not have a chief
5 law enforcement officer, the sheriff shall perform the duties of the local
6 law enforcement agency.

7 E. On receiving notice pursuant to section 13-3822 that a person who
8 is required to register has moved from the person's address, the chief law
9 enforcement officer of the community to which the person has relocated may
10 notify that community of the person's relocation to the community, pursuant
11 to subsection C of this section. If the community does not have a local law
12 enforcement agency, the sheriff of the county to which the person has
13 relocated shall notify the community of the person's relocation.

14 F. In cooperation with the county probation department or the state
15 department of corrections, a law enforcement agency may delegate all or part
16 of the notification process for offenders on community supervision to the
17 county probation department or to the state department of corrections, as
18 appropriate.

19 G. Information concerning a person who is required to register
20 pursuant to section 13-3821 and who is subject to the provisions of community
21 notification and who is a student at a public or private institution of
22 postsecondary education or who is employed or carries on a vocation, with or
23 without compensation, at a public or private institution of postsecondary
24 education shall be promptly made available by the county sheriff to the law
25 enforcement agency having jurisdiction for performing community notification
26 pursuant to guidelines adopted under section 13-3826. The law enforcement
27 agency shall notify the institution's administration and shall complete
28 appropriate campus notification pursuant to guidelines adopted under section
29 13-3826.

30 H. This section does not prohibit law enforcement officers from giving
31 a community notice of any circumstances or persons that pose a danger to the
32 community under circumstances that are not provided for under this section.

33 I. Except as provided in subsection J of this section, this section
34 applies to all persons who are subject to the registration requirements in
35 section 13-3821 whether or not the person was convicted before or after June
36 1, 1996.

37 J. This section does not apply to persons subject to the registration
38 requirements in section 13-3821 as a result of offenses adjudicated by a
39 juvenile court unless ordered by the court.

40 K. Notwithstanding ~~section 13-3825~~, subsections B and C OF THIS
41 SECTION, the agency that had custody or responsibility for supervision of an
42 offender or the court that sentenced the offender who was convicted of
43 committing an offense that subjects the offender to the registration
44 requirements of section 13-3821 and who committed the offense before June 1,
45 1996 may conduct a risk assessment for the offender as existing resources are

1 available pursuant to guidelines adopted by the community ~~notifications~~
2 ~~NOTIFICATION~~ guidelines committee pursuant to section 13-3826. Community
3 notification pursuant to ~~THIS~~ section ~~13-3825~~ and sex offender web site
4 notification pursuant to section 13-3827 shall only be conducted after the
5 risk assessment is complete.

6 Sec. 5. Section 13-3826, Arizona Revised Statutes, is amended to read:
7 ~~13-3826.~~ Community notification guidelines committee; members;
8 duties; definition

9 A. The community notification guidelines committee is established
10 consisting of the following members:

11 1. A member of the senate who is appointed by the president of the
12 senate to serve as ~~cochair~~ CHAIRPERSON of the committee.

13 2. A member of the house of representatives who is appointed by the
14 speaker of the house of representatives to serve as ~~cochair~~ CHAIRPERSON of
15 the committee.

16 3. The attorney general or the attorney general's designee.

17 4. The chairman of the senate judiciary committee or its successor
18 committee, who serves as an advisory member.

19 5. A member of the minority party in the senate who is appointed by
20 the president of the senate and who serves as an advisory member.

21 6. The chairman of the house of representatives judiciary committee or
22 its successor committee, who serves as an advisory member.

23 7. A member of the minority party in the house of representatives who
24 is appointed by the speaker of the house of representatives and who serves as
25 an advisory member.

26 8. Two sheriffs or their designees who are appointed by the president
27 of the Arizona county attorneys and sheriffs association, one of whom
28 represents a county with a population of more than four hundred thousand
29 persons according to the most recent United States decennial census and one
30 of whom represents a county with a population of four hundred thousand
31 persons or less according to the most recent United States decennial census.

32 9. Two chiefs of police or their designees who are appointed by the
33 president of the Arizona association of chiefs of police, one of whom
34 represents a city or town in a county with a population of more than four
35 hundred thousand persons according to the most recent United States decennial
36 census and one of whom represents a city or town in a county with a
37 population of four hundred thousand persons or less according to the most
38 recent United States decennial census.

39 10. Two county attorneys or their designees who are appointed by the
40 chairman of the Arizona prosecuting attorneys' advisory council, one of whom
41 represents a county with a population of more than four hundred thousand
42 persons according to the most recent United States decennial census and one
43 of whom represents a county with a population of four hundred thousand
44 persons or less according to the most recent United States decennial census.

1 11. Two county adult probation officers or their designees who are
2 appointed by the chief justice of the supreme court, one of whom represents a
3 county with a population of more than four hundred thousand persons according
4 to the most recent United States decennial census and one of whom represents
5 a county with a population of four hundred thousand persons or less according
6 to the most recent United States decennial census.

7 12. One state adult parole administrator or the administrator's
8 designee who is appointed by the governor.

9 13. The director of the department of public safety or the director's
10 designee.

11 14. The director of the department of transportation or the director's
12 designee.

13 15. One person who is licensed under title 32, chapter 19.1 and who is
14 appointed by the state board of psychologist examiners.

15 16. One representative of a public defender's office who is recommended
16 by an association of public defenders and who is appointed by the speaker of
17 the house of representatives.

18 17. One advocate or community restitution provider who is appointed by
19 the president of the senate.

20 18. Two public members, one of whom is appointed by the president of
21 the senate and one of whom is appointed by the speaker of the house of
22 representatives.

23 B. Appointed members serve two year terms.

24 C. The members shall meet at a time and place set by the
25 cochairpersons.

26 D. Members of the committee are not eligible to receive compensation
27 but are eligible for reimbursement of expenses pursuant to title 38, chapter
28 4, article 2.

29 E. The committee shall:

30 1. Adopt community notification guidelines. The committee shall
31 monitor the implementation of the community notification guidelines that the
32 committee adopts. The guidelines shall provide for levels of notification
33 based on the risk that a particular sex offender poses to the community. The
34 notification requirements are as follows:

35 (a) For level two and level three offenders, the notification shall be
36 made to the surrounding neighborhood, area schools, appropriate community
37 groups and prospective employers. The notification shall include a flyer
38 with a photograph and exact address of the offender as well as a summary of
39 the offender's status and criminal background. A press release and a level
40 two or level three flyer shall be given to the local electronic and print
41 media to enable information to be placed in a local publication. ~~If a level~~
42 ~~two or level three offender fails to register or reregister pursuant to~~
43 ~~section 13-3821 or 13-3822 and a warrant is issued, before the issuance of~~
44 ~~the warrant the law enforcement agency that requested the warrant shall~~
45 ~~assemble, print and distribute appropriate flyers regarding the offender.~~

1 (b) For level one offenders, the local law enforcement agency that is
2 responsible for notification shall maintain information about the offender.
3 The local law enforcement agency may disseminate this information to other
4 law enforcement agencies and may give notification to the people with whom
5 the offender resides. ~~If a level one offender fails to register or~~
6 ~~reregister pursuant to section 13-3821 or 13-3822 and a warrant is issued,~~
7 ~~before the issuance of the warrant the law enforcement agency that requested~~
8 ~~the warrant may assemble, print and distribute appropriate flyers regarding~~
9 ~~the offender.~~

10 2. Develop and recommend a process for a sex offender to request a
11 notification level review and for the court to determine if a sex offender
12 notification level may be reduced or the offender is no longer required to
13 register. The committee shall submit a report of its recommendation to the
14 governor, the president of the senate and the speaker of the house of
15 representatives on or before December 15, 2004 and shall provide a copy of
16 this report to the secretary of state and the director of the Arizona state
17 library, archives and public records.

18 3. Study whether there is uniform and consistent application of the
19 community notification guidelines on a statewide basis, including whether
20 offenders who pose similar risks are assigned similar notification levels in
21 different jurisdictions.

22 F. The committee shall adopt guidelines regarding how community
23 notification pursuant to section 13-3825, subsection K should be conducted,
24 including whether community notification should occur. The guidelines should
25 provide for flexibility based on resources and the availability of
26 records. The committee may adopt procedures that allow offenders required to
27 register to not be classified if necessary records are not reasonably
28 available.

29 G. For the purposes of this section, "advisory member" means a member
30 who advises other committee members during meetings but who is ineligible to
31 vote and who is not a member for the purposes of determining if a quorum is
32 present.